



MONTGOMERY COUNTY ETHICS COMMISSION

Nina Weisbroth
Chair

Stuart D. Rick
Vice Chair

BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

August 1, 2012

Waiver 12-06-009

For one year after leaving County employment, a former employee must not work for any person or business if the employee significantly participated during the previous three years in any contractual activity with that person or business. Richard Holzman, an Assistant Chief in the Montgomery County Fire and Rescue Service ("MCFRS"), would like to pursue an employment opportunity with a Fire Apparatus Manufacturer ("the Manufacturer") and seeks a waiver from the Ethics Commission from the one year post-employment restriction in the event he is offered employment with the Manufacturer. The Commission is granting the requested waiver, with certain conditions as set forth below.

Mr. Holzman indicates that since December 10, 2008, he has been working with the MCFRS Fleet Section, first in a temporary position as Assistant Chief, and since December 20, 2010, as Assistant Chief. Between July 2008 and July 2009, the Manufacturer completed 39 engines for MCFRS. Mr. Holzman states that the contracts for these engines were in place when he was first assigned to the Fleet Section and that he was not the contract administrator for these contracts. Mr. Holzman did have contact with the Manufacturer on warranty and maintenance issues arising out of MCFRS' purchase of the engines. Mr. Holzman was also present at inspections at the Manufacturer's factory between December 2008 and July 2009 as the engines were completed. The inspection trips also included other County officials including the contract administrator. According to Mr. Holzman, the purchase contracts expired upon completion and delivery, but the warranty and maintenance provisions continued in effect. Mr. Holzman worked with the dealer, the Manufacturer, and component manufacturers to develop approaches to addressing warranty and maintenance items.

Mr. Holzman asserts that he has not had any discussions to date on a position with the Manufacturer.

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Section 19A-13(b) of the ethics law provides that, for one year after leaving County employment, a former employee must not work for any person or business if the employee significantly participated during the previous three years in any contractual activity with that person or business. Significant participation includes not just making a decision, but also making a recommendation and the rendering of advice. See § 19A-13(c). Mr. Holzman has significantly participated in contractual activity with the Manufacturer and therefore needs a waiver to accept post-County employment with that Company. Mr. Holzman's application for a waiver is accompanied by a Memorandum from Fire Chief, Richard R. Bowers, Jr., which states that he does not believe a conflict of interest will exist if Mr. Holzman was to be employed by the Manufacturer.

The Commission may waive the prohibitions of § 19A-13 if it finds that the proposed employment is not likely to create an actual conflict of interest. See § 19A-8(c)(2). Pursuant to its authority in § 19A-8(e) to impose conditions on grants of waivers to fulfill the purposes of the Public Ethics Law, the Commission finds that the waiver standard is met in this case as long as the following two conditions are met:

1. Mr. Holzman shall conduct no work on matters affecting the Manufacturer while he is a County employee seeking employment with the Manufacturer. Since Mr. Holzman has stated his intent to seek employment with the Manufacturer at this time, this condition is effective immediately.¹
2. If employed by the Manufacturer, Mr. Holzman shall not represent the Manufacturer before the County during his employment with the Manufacturer.

In reaching this decision, the Commission has relied upon the facts as presented by Mr. Holzman.

For the Commission:



Nina A. Weisbroth, Chair

¹ Section 19-11(a)(2)(c) of the Ethics Law prohibits an employee from participating in a matter where a party to that matter is a business with which the employee is negotiating or has any arrangement about prospective employment.